

DOCKET FILE COPY
ORIGINAL

Federal Communications Commission

FCC 94-84

FCC MAIL SECTION

Before the
Federal Communications Commission
Washington, D.C. 20554
APR 20 2 32 PM '94

CC Docket No. 93-5 ✓

In the Matter of

Elimination or Revision of Certain
Reporting Requirements under Part 43
of the Commission's Rules, Reports of
Communication Common Carriers and
Certain Affiliates.

REPORT AND ORDER

Adopted: April 7, 1994;

Released: April 20, 1994

By the Commission:

I. INTRODUCTION AND BACKGROUND

1. In a Notice of Proposed Rulemaking (*Notice*),¹ released February 2, 1993, we proposed to amend Part 43 of our Rules by eliminating Sections 43.42, Reports on pensions and benefits.² We also proposed to revise Section 43.21(c), Reports of carriers and certain affiliates,³ by raising the reporting threshold from \$2.5 million to \$100 million for holding companies so that only holding companies that control communications common carriers with \$100 million in annual operating revenues would have to file the Annual Report Form 10-K (Form 10-K)⁴ with the Commission. We invited comments on these proposals and sought suggestions on alternative thresholds for filing the Form 10-K. Five parties filed comments.⁵ For the reasons explained below we adopt both our proposal to eliminate the requirement that common carriers file pension and benefit documents and data and our proposal to raise the reporting requirement's revenue threshold from \$2.5 million to \$100 million.

¹ Elimination or Revision of Certain Reporting Requirements under Part 43 of the Commission's Rules, Reports of Communications Common Carriers and Certain Affiliates, *Notice of Proposed Rulemaking*, CC Docket No. 93-5, 8 FCC Rcd 738 (1993) (*Notice*).

² 47 C.F.R. §43.42.

³ 47 C.F.R. §43.21(c).

⁴ Form 10-K is a Securities and Exchange Commission report containing annual financial statements and other financial data and is required to be filed by certain companies whose stock is publicly traded.

⁵ Comments were received from the United States Telephone Association (USTA); BellSouth Telecommunications, Inc. (BellSouth); GTE Service Corporation, (GTE); the United and Central Telephone Companies (United/Central); and Pacific Bell and Nevada Bell (the Pacific Companies). No reply comments were received.

⁶ *Notice*, 8 FCC Rcd at paras. 4-8.

2. This proceeding was initiated by the Commission as a part of our review of reporting requirements to determine those reports which are no longer necessary or should be modified to meet our current regulatory needs. The changes we adopt in this proceeding will result in savings to the public by reducing industry reporting burdens and to the Commission by reducing the cost of processing the filings and maintaining them in storage.

II. COMMENT AND DISCUSSION

A. Elimination of Pension and Benefits Data Filing

3. In our *Notice* we proposed to delete Section 43.42 from our Rules and thus eliminate the requirement that communications common carriers with annual revenues of \$100 million or more file with this Commission copies, or detailed descriptions, of their pension and benefits plans, along with other documents and details related to such plans. All of the commenting parties support the elimination of these pension and benefits data filing requirements.

4. As we noted in our *Notice*, our filing requirements have remained substantially unchanged for more than 20 years.⁶ There have, however, been substantial changes in both the laws that provide for the oversight of pension plans and the generally accepted accounting principles applicable to them. These changes, such as the Employee Retirement Income Securities Act (ERISA)⁷ requirements enforced by the Internal Revenue Service, the Department of Labor and the Pension Benefit Guarantee Corporation, and the generally accepted accounting principles issued by Financial Accounting Standards Board⁸ have brought about a greater degree of uniformity in the process of estimating and accounting for pension and benefits costs. Because the pension expense currently included in the carriers' accounts are now determined on a more consistent basis, there is no need to require carriers to file the underlying details of their pension and benefits plans. Indeed, we can discharge our oversight responsibility in this area using the pension data currently being reported in the Automated Reporting and Management Information Systems (ARMIS) USOA Report 43-02, Table VIII, Pension Cost, and, as necessary, requesting specific data from the carriers. Therefore, we adopt our proposal to eliminate Section 43.42 of our Rules.

⁷ In 1974, Congress passed ERISA which established standards of conduct for pension and welfare benefits plans and had a substantial impact on the funding and administration of such plans. ERISA is now the principal legislation governing private pension funds. The ERISA rules require that plan assets be held in trust under stringent fiduciary standards. The rules also provide standards for transactions between pension plan funds and employers.

⁸ The FASB is the authoritative standard setting body for accounting practices that are used in the American business community. The FASB issued Statements of Financial Accounting Standards No. 87, Employers' Accounting for Pensions, in 1985; Statements of Financial Accounting Standards No. 88, Employers' Accounting for Settlements and Curtailments of Defined Benefit Pension Plans and for Termination Benefits, in 1985; and Statements of Financial Accounting Standards No. 106, Employers' Accounting for Postretirement Benefits Other Than Pensions, in 1990.

B. Revenue Threshold for Filing Annual Report Form 10-K.

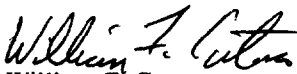
5. Section 43.21(c) requires any company, not itself a communication common carrier, which directly or indirectly controls any communication common carrier with annual operating revenues in excess of \$2.5 million to file annually with the Commission two complete copies of any annual report Form 10-K filed with the Securities and Exchange Commission. We proposed to amend Section 43.21(c) by raising the specified reporting threshold for companies controlling communications common carriers from \$2.5 million to \$100 million. This revision would make the reporting threshold in Section 43.21(c) consistent with other Part 43 reporting. All parties filing comments support our proposal not only for the consistency it would create, but because it would reduce the burden on smaller companies and produce savings beneficial to the Commission and the public.

6. We also invited comments on whether we should adopt a revenue threshold, other than the \$100 million threshold we proposed, for filing Form 10-K with this Commission. BellSouth supports the \$100 million threshold but suggests a higher threshold, such as \$500 million in annual revenues, for all of the reports required by Part 43 of the Commission's Rules.⁹ We reject BellSouth's suggestion that we raise the reporting threshold to \$500 million for all the reports required by Part 43 of our Rules. Part 43 contains numerous other reporting requirements, such as the Annual Report Form M and the ARMIS filing requirements. Not only is BellSouth's suggestion outside the scope of our Notice, but also BellSouth failed to offer any justification for its suggested \$500 million reporting threshold. We believe that the reporting threshold of \$100 million in annual operating revenues will make the Section 43.21(c) requirements consistent with other Part 43 reporting requirements for communications common carriers. We find no reason at this time to change the reporting threshold to a higher amount. Therefore, we amend Section 43.21(c) by incorporating our proposed threshold of \$100 million.

III. ORDERING CLAUSE

7. Accordingly, IT IS ORDERED that pursuant to Sections 4, 218, 219, 220 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154, 218, 219, 220, and 303, Part 43 of the Commission's Rules, 47 C.F.R. Part 43, IS AMENDED as set forth in the Appendix hereto, effective 90 days from the date a summary of this Report and Order is published in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION


William F. Caton
Acting Secretary

APPENDIX

Part 43 of Title 47 of the CFR is amended as follows:

Part 43 - Reports of communication common carriers and certain affiliates.

1. The authority citation for Part 43 continues to read as follows:

Authority: Sec 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 211, 219, 220, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

2. Paragraph (c) of Section 43.21 is revised to read as follows:

43.21 Annual reports of carriers and certain affiliates.

(c) Each company, not itself a communication common carrier, that directly or indirectly controls any communication common carrier that has annual operating revenues of \$100 million or more shall file annually with the Commission, not later than the date prescribed by the Securities and Exchange Commission for its purposes, two complete copies of any annual report Forms 10-K (or any superseding form) filed with that Commission.

3. Section 43.42 is removed.

⁹ BellSouth Comments at p. 2-3.